

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

KRISTOFER E. HALVORSON,
Bar No. 016525

Respondent.

PDJ-2017-9030

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 16-1686]

FILED JULY 12, 2017

This matter was heard by a Hearing Panel which rendered its decision under Rule 58, Ariz. R. Sup. Ct. No appeal has been filed and time to appeal has expired.

Accordingly,

IT IS HEREBY ORDERED Respondent, **KRISTOFER E. HALVORSON**, is suspended from the practice of law for two (2) years consecutive to his present suspension, effective June 21, 2017, for conduct in violation of his duties and obligations as a lawyer as disclosed in the Hearing Panel's Decision and Order Imposing Sanctions filed on June 21, 2017. There is no restitution.

IT IS FURTHER ORDERED Mr. Halvorson shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED Mr. Halvorson shall all costs and expenses of the State Bar of Arizona as approved by the Presiding Disciplinary Judge. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 12th day of July, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 12th day of July, 2016 to:

Craig D. Henley
Senior Bar Counsel
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Kristofer E. Halvorson
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Respondent

and alternate address:

Kristofer E. Halvorson
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by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A
SUSPENDED MEMBER OF
THE STATE BAR OF ARIZONA,

KRISTOFER E. HALVORSON,
Bar No. 016525

Respondent.

PDJ 2017-9030

**DECISION AND ORDER
IMPOSING SANCTIONS**

[State Bar No. 16-1686]

FILED JUNE 21, 2017

On May 17, 2017, the Hearing Panel, comprised of Sandra E. Hunter, Attorney Member, Nance A. Daley, Public Member, and Presiding Disciplinary Judge (PDJ) William J. O’Neil, held an aggravation/mitigation hearing. Craig D. Henley appeared on behalf of the State Bar of Arizona. Mr. Halvorson did not appear. At the conclusion, the State Bar requested a long-term suspension.

PROCEDURAL HISTORY

The State Bar of Arizona (“SBA”) filed its complaint on March 10, 2017. On March 14, 2017, the complaint was served on Mr. Halvorson by certified, delivery restricted mail, and by regular first class mail, pursuant to Rules 47(c) and 58(a) (2), Ariz. R. Sup. Ct¹. On March 15, 2017, the Presiding Disciplinary Judge (“PDJ”) was assigned to the matter.

¹ Unless otherwise stated, all Rule references are to the Ariz. R. Sup. Ct.

A notice of default was properly issued on April 11, 2017. Mr. Halvorson failed to answer and the default was effective on May 3, 2017. Upon the entry of effective default, the Court deemed all facts in the complaint admitted.² On May 17, 2017, the Hearing Panel held a duly noticed aggravation/mitigation hearing.

Although the allegations are deemed admitted by the effective default, there has been an independent determination by the Hearing Panel that the State Bar has proven by clear and convincing evidence that Mr. Halvorson violated the ethical rules alleged. Nine (9) exhibits were admitted supporting the allegations. We find all rule violations alleged in the complaint established by clear and convincing evidence.

FINDINGS OF FACT

1. The Court adopts and incorporates by reference the averments in the admitted complaint, presented here in condensed form. On October 21, 1995, Mr. Halvorson was admitted to practice law in Arizona under Bar No. 016525.

2. As required by Rules 45 and 62, the State Bar on December 29, 2014, gave Mr. Halvorson a thirty day notice of his pending suspension for failure to file a MCLE affidavit. [Ex. 1, SBA000004-5.] On February 27, 2015, Mr. Halvorson

² Rule 58(d).

was summarily suspended from the practice of law in the State of Arizona for noncompliance with Rule 45, *Ariz. R. Sup. Ct.* [Ex. 1, Bates SBA00001-3.]

3. By Final Judgment and Order dated May 4, 2015, Mr. Halvorson was suspended from the practice of law for one year, *In the Matter of Kristopher E. Halvorson*, PDJ 2015-9001. [Ex. 6, 7.] *In the Matter of Kristopher E. Halvorson*, PDJ 2015-9006, by Final Judgment and Order dated May 5, 2016, he was suspended for six months and one day. [Ex. 8, 9.]

COUNT ONE (File No. 16-1686/Arizona)

4. On July 3, 2014, Mr. Halvorson submitted a Trademark/Service Mark Application (US Serial Number 86327938) to obtain a certain patent with the United States Patent and Trademark Office (“USPTO”) as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona. [Ex. 4, Bates SBA000044-50.]

5. US Serial Number 86327938 trademark/service mark was registered with the USPTO on September 1, 2015. Mr. Halvorson was the attorney of record for Me4Kidz LLC at all time during the application process.

6. While suspended, on April 1, 2015, Mr. Halvorson submitted a Trademark/Service Mark Application (US Serial Number 86583707) to obtain a certain patent with the USPTO as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona. [Ex. 4, Bates SBA000051-55.]

7. US Serial Number 86583707 trademark/service mark was registered with the USPTO on August 25, 2015. Mr. Halvorson was the attorney of record for Me4Kidz LLC at all time during the application process.

8. While suspended, on April 1, 2015, Mr. Halvorson submitted a Trademark/Service Mark Application (US Serial Number 86583692) to obtain a certain patent with the USPTO as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona. [Ex. 4, Bates SBA000058-64.]

9. US Serial Number 86583692 trademark/service mark was registered with the USPTO on August 25, 2015. Mr. Halvorson was the attorney of record for Me4Kidz LLC at all time during the application process.

10. While suspended, on April 1, 2015, Mr. Halvorson submitted a Trademark/Service Mark Application (US Serial Number 86583681) to obtain a certain patent with the USPTO as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona. [Ex. 4, Bates SBA000065-71.]

11. US Serial Number 86583681 trademark/service mark was registered with the USPTO on August 25, 2015. Mr. Halvorson was the attorney of record for Me4Kidz LLC at all time during the application process.

12. On May 24, 2016, the State Bar mailed Mr. Halvorson an initial screening letter requesting he respond to the allegations within twenty days.³ [Ex. 2,

³ Rule 55(b)(1).

Bates SBA000020-23.] The initial screening letter informed Mr. Halvorson of his duty to respond to the letter. Citing Rule 54(d) and Rule 42, *Ariz. R. Sup. Ct.*, ER 8.1(b), the letter also informed him his failure to respond could be grounds for discipline.

13. On June 23, 2016, the State Bar mailed Mr. Halvorson a second request for a response to be provided within ten days. The second letter again informed Mr. Halvorson that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline.

14. On July 6, 2016, the State Bar sent a third request for a response to be provided within ten days to the address maintained by Mr. Halvorson with the USPTO. [Ex. 3.]

15. To date, Mr. Halvorson has not provided the State Bar with a written response to this bar charge.

16. On October 12, 2016, the USPTO issued a decision and order excluding Mr. Halvorson from practice before the USPTO. Among the findings were that his actions were “willful” [Ex. 5, Bates SBA000074] in that he was,

...engaging in the unauthorized practice of law. Respondent filed trademark applications on behalf of (Me4Kidz LLC) when Respondent was not licensed to practice law in any state and, in turn, is in violation

of 37 C.F.R. § 11.505 of the USPTO Rules of Professional Conduct.”

[Ex. 5, Paragraph g., Bates SBA000089.]

17. 37 CFR § 11.505 provides, “[a] practitioner shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.”

18. By engaging in the above referenced misconduct, Mr. Halvorson violated the following ethical rules:

- a. Rule 42, *Ariz. R. Sup. Ct.*, ER 5.5 – Mr. Halvorson knowingly engaged in the unauthorized practice of law as defined by Rule 31, *Ariz. R. Sup. Ct.* while suspended;
- b. Rule 42, *Ariz. R. Sup. Ct.*, ER 8.1(b) – Mr. Halvorson knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation; and
- c. Rule 54(d), *Ariz. R. Sup. Ct.* – Mr. Halvorson refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

CONCLUSIONS OF LAW

Based upon the facts deemed admitted, the Hearing Panel finds by clear and convincing evidence that Mr. Halvorson violated the following ethical rules in each of the three counts: Rule 42, *Ariz. R. Sup. Ct.*, specifically ERs 5.5, 8.1(b) and Rule 54(d)(2), *Ariz. R. Sup. Ct.*

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ABA STANDARDS ANALYSIS

The American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") are a "useful tool in determining the proper sanction." *In re Cardenas*, 164 Ariz. 149, 152, 791 P.2d 1032, 1035 (1990). In imposing a sanction, the following factors should consider: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard 3.0*.

Duties violated:

Mr. Halvorson violated his duty to her clients by violating Rule 42, *Ariz. R. Sup. Ct.*, ER 5.5. Mr. Halvorson also violated his duty owed as a professional by violating E.R.s 8.1(b) and Rule 54(d)(2), *Ariz. R. Sup. Ct.*

Mental State and Injury:

Mr. Halvorson knowingly violated his duty to clients and the profession, implicating the following *Standards*:

ER 5.5: (Unauthorized Practice of Law)

Standard 7.2

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public or the legal system.

Rule 8.1(b) & 54(d): (Violation of Obligations to Disciplinary System)

Standard 7.2

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

AGGRAVATING AND MITIGATING FACTORS

The Hearing Panel finds the following aggravating factors are present in this matter:

- Standard 9.22(a) prior disciplinary history;
- *Standard* 9.22(c) pattern of misconduct;
- *Standard* 9.22(d) multiple offenses;
- *Standard* 9.22(i) substantial experience in the practice of law [19 years].

The Hearing Panel finds the following mitigating factor applies:

- None

The Hearing Panel finds that long term suspension is appropriate.

CONCLUSION

The Supreme Court “has long held that ‘the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.’” *Alcorn*, 202 Ariz. at 74, 41 P.3d at 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966)). It is also the purpose of lawyer discipline to deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993). It is also a goal of lawyer regulation to protect and

instill public confidence in the integrity of individual members of the SBA. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

The Hearing Panel has made the above findings of fact and conclusions of law. The Hearing Panel has determined the sanction using the facts deemed admitted, the *Standards*, the aggravating factors, the mitigating factor, and the goals of the attorney discipline system.

The Hearing Panel orders:

1. Mr. Halvorson shall be suspended from the practice of law for a consecutive period of two (2) years effective immediately;
2. Mr. Halvorson shall pay all costs and expenses incurred by the SBA in this proceeding. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

A final judgment and order will follow.

DATED this 21st day of June, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Nance A. Dailey

Nance A. Dailey, Volunteer Public Member

Sandra E. Hunter

Sandra E. Hunter, Volunteer Attorney Member

Copies of the foregoing mailed/mailed
this 21st day of June, 2017 to:

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by: AMcQueen

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

MAR 10 2017

FILED
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A
SUSPENDED MEMBER OF
THE STATE BAR OF ARIZONA,**

**KRISTOFER E. HALVORSON,
Bar No. 016525,**

Respondent.

PDJ 2017-9030

COMPLAINT

State Bar No. 16-1686

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. On October 21, 1995, Respondent was licensed to practice law in the State of Arizona.

2. On February 27, 2015, Respondent was summarily suspended from the practice of law in the State of Arizona for noncompliance with Rule 45, *Ariz. R. Sup. Ct.*

3. By Final Judgment and Order dated May 4, 2015, Respondent was suspended from the practice of law for six months and one day in the disciplinary case of *In the Matter of Kristopher E. Halvorson*, PDJ 2015-9001.

COUNT ONE (File No. 16-1686/Arizona)

4. On July 3, 2014, Respondent submitted a Trademark/Service Mark Application (US Serial Number 86327938) to obtain a certain patent with the United States Patent and Trademark Office (hereinafter referred to as "USPTO") as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona.

5. US Serial Number 86327938 trademark/service mark was registered with the USPTO on September 1, 2015. Respondent was the attorney of record for Me4Kidz LLC at all time during the application process.

6. On April 1, 2015, Respondent submitted a Trademark/Service Mark Application (US Serial Number 86583707) to obtain a certain patent with the USPTO as attorney of record on behalf of Me4Kidz LLC, a limited liability company in the State of Arizona.

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15. To date, Respondent has not provided the State Bar with a written response to this bar charge.

16. On October 12, 2016, the USPTO issued a decision and order excluding Respondent from practice before the USPTO for, among other things, "...engaging in the unauthorized practice of law. Respondent filed trademark applications on behalf of (Me4Kidz LLC) when Respondent was not licensed to practice law in any state

and, in turn, is in violation of 37 C.F.R. § 11.505 of the USPTO Rules of Professional Conduct.”

17. 37 CFR § 11.505 states, in pertinent part, “[a] practitioner shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.”

18. By engaging in the above referenced misconduct, Respondent violated the following ethical rules:

- a. Rule 42, *Ariz. R. Sup. Ct.*, ER 5.5 – Respondent engaged in the unauthorized practice of law as defined by Rule 31, *Ariz. R. Sup. Ct.* while suspended;
- b. Rule 42, *Ariz. R. Sup. Ct.*, ER 8.1 – Respondent knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation; and
- c. Rule 54(d), *Ariz. R. Sup. Ct.* – Respondent refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

DATED this 16th day of March, 2017.

STATE BAR OF ARIZONA



Craig D. Henley
Senior Bar Counsel – Litigation

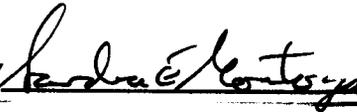
Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 10th day of March, 2017.

by: 
CDH:nr

EXHIBIT A

FILED

JAN 31 2017

BY 

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,**

**KRISTOFER E. HALVORSON,
Bar No. 016525,**

Respondent.

No. 16-1686

PROBABLE CAUSE ORDER

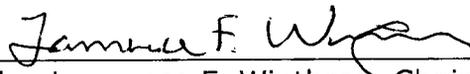
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on January 13, 2017, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 16-1686.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 31 day of January, 2017.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee member Ben Harrison did not participate in this matter.

Original filed this 31st day
of January, 2017, with:

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Copy mailed this 1st day
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Respondent

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by: 